

## SENATE BILL No. 591

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 25-23.6-1; IC 25-33-1.

**Synopsis:** Psychologists scope of practice. Defines psychology testing. Provides that medical and psychological diagnosis and psychology testing are not included in certain therapists' practices. Prohibits psychology testing except by certain individuals. Removes provisions concerning restricted psychology tests or instruments.

**Effective:** July 1, 2005.

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**Miller**

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January 20, 2005, read first time and referred to Committee on Health and Provider Services.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 591

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 25-23.6-1-1.5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. "Appraisal" means  
3 the use or administration of career and occupational instruments,  
4 adaptive behavioral and symptoms screening checklists, and  
5 inventories of interests and preferences that are administered for the  
6 purpose of counseling persons to cope with or adapt to changing life  
7 situations that are due to problems in living. The term includes the use  
8 of marital, relational, communicational, parent and child, and family  
9 systems assessment instruments. The term does not include: ~~the use of~~  
10 ~~restricted psychology tests or instruments as described in~~  
11 ~~IC 25-33-1-2(1).~~

12 (1) **medical or psychological diagnosis; or**

13 (2) **psychology testing (as defined in IC 25-33-1-2).**

14 SECTION 2. IC 25-23.6-1-6 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) "Practice of  
16 clinical social work" means professional services that are designed to  
17 help individuals, marriages, couples, families, groups, and communities



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to enhance or restore their capacity for functioning by:

(1) assisting in the obtaining or improving of tangible social and health services;

(2) providing psychosocial evaluations using accepted classifications, including classifications from the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) as amended and supplemented; but only to the extent of the counselor's education, training, experience, and scope of practice as established by this article;

**(2) evaluating the social circumstances of the individual;**

(3) using appraisal instruments as an aid in treatment planning that the clinical social worker is qualified to employ by virtue of the counselor's education, training, and experience; and

(4) counseling and psychotherapeutic techniques, casework social work advocacy, and treatment in a variety of settings that include mental and physical health facilities, child and family service agencies, or private practice.

(b) The term does not include: ~~diagnosis (as defined in IC 25-22.5-1-1.1(c))~~;

**(1) medical or psychological diagnosis; or**

**(2) psychology testing (as defined in IC 25-33-1-2).**

SECTION 3. IC 25-23.6-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) "Practice of marriage and family therapy" means a specialty that:

(1) uses an applied understanding of the dynamics of marital, relational, and family systems, and individual psychodynamics;

(2) uses counseling and psychotherapeutic techniques;

(3) evaluates and treats mental and emotional conditions, resolves intrapersonal and interpersonal conflict, and changes perceptions, attitudes, and behavior, all within the context of family, marital, and relational systems, including the use of accepted evaluation classifications; ~~including classifications from the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) as amended and supplemented; but~~

~~only to the extent of the counselor's education, training, experience, and scope of practice as established by this article;~~

(4) uses individual, group, couple, sexual, family, and divorce therapy; ~~and~~

(5) uses appraisal instruments that evaluate individual, marital, relational, communicational, parent and child, and family functioning that the marriage and family therapist is qualified to employ by virtue of the counselor's education, training, and

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experience; and

**(6) evaluates the social circumstances of the individual.**

**(b)** The term does not include: ~~diagnosis (as defined in IC 25-22.5-1-1.1(c))~~;

**(1) medical or psychological diagnosis; or**

**(2) psychology testing (as defined in IC 25-33-1-2).**

SECTION 4. IC 25-23.6-1-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. **(a)** "Practice of mental health counseling" means a specialty that:

(1) uses counseling and psychotherapeutic techniques based on principles, methods, and procedures of counseling that assist people in identifying and resolving personal, social, vocational, intrapersonal, and interpersonal concerns;

(2) uses counseling to evaluate and treat emotional and mental problems and conditions in a variety of settings, including mental and physical health facilities, child and family service agencies, or private practice, and including the use of accepted evaluation classifications; ~~including classifications from the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) as amended and supplemented; but only to the extent of the counselor's education, training, experience; and scope of practice as established by this article;~~

(3) administers and interprets appraisal instruments that the mental health counselor is qualified to employ by virtue of the counselor's education, training, and experience;

(4) uses information and community resources for personal, social, or vocational development;

(5) uses individual and group techniques for facilitating problem solving, decision making, and behavioral change;

(6) uses functional assessment and vocational planning guidance for persons requesting assistance in adjustment to a disability or disabling condition;

(7) uses referrals for individuals who request counseling services; and

(8) uses and interprets counseling research; and

**(9) evaluates the social circumstances of the individual.**

**(b)** The term does not include: ~~diagnosis (as defined in IC 25-22.5-1-1.1(c))~~;

**(1) medical or psychological diagnosis; or**

**(2) psychology testing (as defined in IC 25-33-1-2).**

SECTION 5. IC 25-23.6-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. **(a)** "Practice of

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social work" means professional services that are designed to effect change in human behavior, emotional responses, and social conditions of individuals, couples, families, groups, and communities and that involve specialized knowledge and skill related to human development, including an understanding of unconscious motivation, the potential for human growth, the availability of social resources, and knowledge of social systems. The term includes planning, administration, and research for community social services delivery systems.

(b) The term does not include: ~~or diagnosis (as defined in IC 25-22.5-1-1.1(c)).~~

- (1) the use of psychotherapy;
- (2) medical or psychological diagnosis; or**
- (3) psychology testing (as defined in IC 25-33-1-2).**

SECTION 6. IC 25-33-1-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.1. ~~(a)~~ Except as provided in ~~sections 3(g) and 14(c)~~ **section 14(d)** of this chapter, this article exempts a person who does not profess to be a psychologist and who is:

- ~~(1) a certified marriage and family therapist;~~
- ~~(2) a certified social worker or a certified clinical social worker;~~
- (1) a qualified physician licensed under IC 25-22.5;**
- (2) a school psychologist who holds a valid:**
  - (A) license issued by the professional standards board under IC 20-1-1.4-2; or**
  - (B) endorsement under IC 20-1-1.9;**
- and who is practicing within the scope of the school psychologist's license or endorsement;**
- ~~(3) a minister, priest, rabbi, or other member of the clergy providing pastoral counseling or other assistance;~~
- ~~(4) a licensed or certified health care professional;~~
- ~~(5) a licensed attorney;~~
- ~~(6)~~ **(4) a student, an intern, or a trainee pursuing a course of study in psychology in an accredited institution of higher education or training institution if the psychology activities are performed under qualified supervision and constitute a part of the person's supervised course of study or other level of supervision as determined by the board;**
- ~~(7) an employee of or a volunteer for a nonprofit corporation or an organization performing charitable, religious, or educational functions; providing pastoral counseling or other assistance; or~~
- ~~(8) any other certified or licensed profession.~~

~~(b) To be exempt under this article, a person described under~~

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subsection (a)(1); (a)(2); (a)(4); (a)(5); (a)(6); or (a)(8) must provide services:

- (1) within the person's scope of practice and training; and
- (2) according to any applicable ethical standards of the person's profession.
- (5) a clinical social worker, mental health counselor, or licensed or certified health care professional under the supervision of a psychologist endorsed as a health service provider in psychology.**

SECTION 7. IC 25-33-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) **As used in The following definitions apply throughout** this article:

(1) "Appraisal instrument" means:

- ~~(1)~~ **(A)** a career and occupational instrument;
- ~~(2)~~ **(B)** an adaptive behavioral and symptom screening checklist; or
- ~~(3)~~ **(C)** an inventory of interests and preferences;

that is administered for the purpose of counseling individuals to cope with or adapt to changing life situations or to situations that are due to problems in living. The term includes marital, relational, communicational, parent and child, family system assessment instruments, and employment counseling.

(2) "Board" means the state psychology board.

(3) "Person" means an individual, firm, partnership, association, or corporation.

(4) "Practice of psychology" includes the following:

- ~~(1)~~ **(A)** Construction, administration, and interpretation of tests of intellectual and cognitive abilities, aptitudes, skills, interests, attitudes, personality characteristics, perception, emotion, motivation, and opinion.
- ~~(2)~~ **(B)** Diagnosis and treatment of mental and behavioral disorders by a health service provider in psychology.
- ~~(3)~~ **(C)** Educational and vocational planning and guidance.
- ~~(4)~~ **(D)** Personnel selection and management.
- ~~(5)~~ **(E)** Arrangement of effective work and learning situations.
- ~~(6)~~ **(F)** Resolution of interpersonal and social conflicts.
- ~~(7)~~ **(G)** Techniques used in interviewing, counseling, psychotherapy, and behavior modification of individuals or groups.
- ~~(8)~~ **(H)** Supervision of psychological services.
- ~~(9)~~ **(I)** Teaching of any of the practices listed in this subsection.

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1           ~~(+)~~ (J) The planning and conduct of research on human  
2           behavior.

3           (5) "Psychological services" means acts or behaviors coming  
4           within the purview of the practice of psychology (as defined in  
5           this article).

6           (6) "Psychology testing" means the administration and  
7           interpretation of measurement instruments, devices, or  
8           procedures for the purpose of treatment, planning, diagnosis,  
9           classification, and description of:

10           (A) intelligence;

11           (B) mental and emotional disorders;

12           (C) disorders of personality or behavior;

13           (D) psychological aspects of physical illness, accident,  
14           injury, or disability; and

15           (E) neuropsychological functioning.

16           The term includes computerized psychological assessment  
17           procedures. The term does not apply to an educational or  
18           appraisal instrument used in a school setting to assess  
19           educational progress or the use of an appraisal instrument.

20           (7) "Recognized institution of higher learning" means any college,  
21           university, school, or similar educational establishment approved  
22           by the board for the purposes of this article.

23           (8) "Bureau" means the health professions bureau under  
24           IC 25-1-5.

25           (9) "Approved organization" means any organization or individual  
26           approved by the board.

27           (10) "Continuing education course" means an orderly process of  
28           instruction that is designed to directly enhance the practicing  
29           psychologist's knowledge and skill in providing relevant  
30           psychological services, and that is approved by an approved  
31           organization.

32           (b) Nothing in this article shall be construed as permitting  
33           individuals licensed as psychologists to engage in any manner in the  
34           practice of medicine or optometry (as defined in the laws of this state).

35           (c) Nothing in this article shall be construed as permitting a  
36           psychologist to prescribe medication, unless a psychologist is  
37           participating in a federal government sponsored training or treatment  
38           program. An individual licensed as a psychologist may not prescribe  
39           medication unless the individual is a practitioner (as defined under  
40           IC 16-42-19-5).

41           SECTION 8. IC 25-33-1-3 IS AMENDED TO READ AS  
42           FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) There is created

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a board to be known as the "state psychology board". The board shall consist of seven (7) members appointed by the governor. Six (6) of the board members shall be licensed under this article and shall have had at least five (5) years of experience as a professional psychologist prior to their appointment. The seventh member shall be appointed to represent the general public, must be a resident of this state, must never have been credentialed in a mental health profession, and must in no way be associated with the profession of psychology other than as a consumer. All members shall be appointed for a term of three (3) years. All members may serve until their successors are duly appointed and qualified. A vacancy occurring on the board shall be filled by the governor by appointment. The member so appointed shall serve for the unexpired term of the vacating member. Each member of the board is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency.

(b) The members of the board shall organize by the election of a chairman and a vice chairman from among its membership. Such officers shall serve for a term of one (1) year. The board shall meet at least once in each calendar year and on such other occasions as it considers necessary and advisable. A meeting of the board may be called by its chairman or by a majority of the members on the board. Four (4) members of the board constitute a quorum. A majority of the quorum may transact business.

(c) The board is empowered to do the following:

- (1) Establish reasonable application, examination, and renewal procedures and set fees for licensure under this article. However, no fee collected under this article shall, under any circumstances, be refunded.
- (2) Adopt and enforce rules concerning assessment of costs in disciplinary proceedings before the board.
- (3) Establish examinations of applicants for licensure under this article and issue, deny, suspend, revoke, and renew licenses.
- (4) Subject to IC 25-1-7, investigate and conduct hearings, upon complaint against individuals licensed or not licensed under this article, concerning alleged violation of this article, under procedures conducted in accordance with IC 4-21.5.
- (5) Initiate the prosecution and enjoinder of any person violating this article.

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(6) Adopt rules which are necessary for the proper performance of its duties, in accordance with IC 4-22-2.

(7) Establish a code of professional conduct.

(d) The board shall adopt rules establishing standards for the competent practice of psychology.

(e) All expenses incurred in the administration of this article shall be paid from the general fund upon appropriation being made in the manner provided by law for the making of such appropriations.

(f) The bureau shall do the following:

(1) Carry out the administrative functions of the board.

(2) Provide necessary personnel to carry out the duties of this article.

(3) Receive and account for all fees required under this article.

(4) Deposit fees collected with the treasurer of the state for deposit in the state general fund.

(g) The board shall adopt rules under IC 4-22-2 to establish, maintain, and update a list of restricted psychology tests and instruments (as defined in section 14(b) of this chapter) containing those psychology tests and instruments that, because of their design or complexity, create a danger to the public by being improperly administered and interpreted by an individual other than:

(1) a psychologist licensed under IC 25-33-1-5.1;

(2) an appropriately trained mental health provider under the direct supervision of a health service provider endorsed under IC 25-33-1-5.1(c);

(3) a qualified physician licensed under IC 25-22.5;

(4) a school psychologist who holds a valid:

(A) license issued by the professional standards board under IC 20-1-1.4-2; or

(B) endorsement under IC 20-1-1.9;

practicing within the scope of the school psychologist's license or endorsement; or

(5) a minister, priest, rabbi, or other member of the clergy providing pastoral counseling or other assistance.

(h) The board shall provide to:

(1) the social work certification and marriage and family therapists credentialing board; and

(2) any other interested party upon receiving the request of the interested party;

a list of the names of tests and instruments proposed for inclusion on the list of restricted psychological tests and instruments under subsection (g) at least sixty (60) days before publishing notice of intent

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under IC 4-22-2-23 to adopt a rule regarding restricted tests and instruments.

(i) The social work certification and marriage and family therapists credentialing board and any other interested party that receives the list under subsection (h) may offer written comments or objections regarding a test or instrument proposed for inclusion on the list of restricted tests and instruments within sixty (60) days after receiving the list. If:

(1) the comments or objections provide evidence indicating that a proposed test or instrument does not meet the criteria established for restricted tests and instruments; the board may delete that test from the list of restricted tests; and

(2) the board determines that a proposed test or instrument meets the criteria for restriction after reviewing objections to the test or instrument; the board shall respond in writing to justify its decision to include the proposed test or instrument on the list of restricted tests and instruments.

(j) This section may not be interpreted to prevent a licensed or certified health care professional from practicing within the scope of the health care professional's:

(1) license or certification; and

(2) training or credentials.

SECTION 9. IC 25-33-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) This section does not apply to an individual who is:

(1) a member of a teaching faculty, at a public or private institution of higher learning for the purpose of teaching, research, or the exchange or dissemination of information and ideas as an assigned duty of the institution;

(2) a commissioned psychology officer in the regular United States armed services;

(3) licensed by the professional standards board (established by IC 20-1-1.4-2) as a school psychologist and using the title "school psychologist" or "school psychometrist" as an employee of a school corporation; or

(4) endorsed as an independent practice school psychologist under IC 20-1-1.9.

(b) As used in this section, "restricted psychology test or instrument" means a measurement instrument or device used for treatment planning, diagnosing, or classifying intelligence, mental and emotional disorders and disabilities, disorders of personality, or neuropsychological, neurocognitive, or cognitive functioning. The term

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does not apply to an educational instrument used in a school setting to assess educational progress or an appraisal instrument.

(b) It is unlawful for an individual to:

- (1) claim that the individual is a psychologist; or
- (2) use any title which uses the word "psychologist", "clinical psychologist", "Indiana endorsed school psychologist" or "psychometrist", or any variant of these words, such as "psychology", or "psychological", or "psychologic";

unless that individual holds a valid license issued under this article or a valid endorsement issued under IC 20-1-1.9.

(c) It is unlawful for any individual, regardless of title, to render, or offer to render, psychological services to individuals, organizations, or to the public, unless the individual holds a valid license issued under this article or a valid endorsement issued under IC 20-1-1.9 or is exempted under section 1.1 of this chapter.

(d) **Performing psychology testing** is unlawful for an individual other than:

- (1) a psychologist licensed under IC 25-33-1-5.1;
- (2) an appropriately trained mental health provider under the direct supervision of a health service provider endorsed under IC 25-33-1-5.1(c);
- (3) a qualified physician licensed under IC 25-22.5;
- (4) a school psychologist who holds a valid:

(A) license issued by the professional standards board under IC 20-1-1.4-2; or

(B) endorsement under IC 20-1-1.9;

who practices within the scope of the school psychologist's license or endorsement; or

(5) a minister, priest, rabbi, or other member of the clergy providing pastoral counseling or other assistance; or

**(6) a licensed speech language pathologist, a licensed physical therapist, or a certified occupational therapist who:**

**(A) uses psychology testing within the scope of the individual's practice; and**

**(B) is not providing mental diagnosis.**

to administer or interpret a restricted psychology test or instrument as established by the board under IC 25-33-1-3(g) in the course of rendering psychological services to individuals, organizations, or to the public.

(f) This section may not be interpreted to prevent a licensed or certified health care professional from practicing within the scope of the health care professional's:

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1       ~~(1) license or certification; and~~

2       ~~(2) training or credentials.~~

3       SECTION 10. IC 25-33-1-19 IS ADDED TO THE INDIANA  
4       CODE AS A NEW SECTION TO READ AS FOLLOWS  
5       [EFFECTIVE JULY 1, 2005]: **Sec. 19. (a) An individual licensed**  
6       **under this article may not perform psychology testing unless the**  
7       **individual:**

8       **(1) either:**

9       **(A) completes formal academic training in:**

10       **(i) statistics;**

11       **(ii) test construction;**

12       **(iii) sampling theory;**

13       **(iv) tests and measurement;**

14       **(v) individual difference; and**

15       **(vi) personality theory; or**

16       **(B) meets qualifications established by the developer,**  
17       **publisher, or authorized distributor of a psychology test;**  
18       **and**

19       **(2) has received training or gained experience in psychology**  
20       **testing in a professional setting with qualified supervision.**

21       **(b) An individual who violates this section commits a Class A**  
22       **misdemeanor.**

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